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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Olaf Such

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

JIAN, SHIRLEY XUEYING

ART UNIT

PAPER NUMBER

4138

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,388	Applicant(s) SUCH ET AL.	
	Examiner SHIRLEY JIAN	Art Unit 4138	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (4) because reference character "65" has been used to designate both "monitoring system comprising electronic device" in the specification and "sensing means" in Claim 12. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because the abstract exceeds the maximum word limit. Correction is required. See MPEP § 608.01(b).

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification of the disclosure is objected to because the specification lacks proper headings for sub-sections such as background of invention, brief summary of the invention, etc. Corrections are required. See MPEP § 608.01(c).

5. The disclosure is objected to because of the following informalities: the specification recites the word “actuatable” on page 1, line 9 of the specification which appears to be an improper form of the word “actuate.” Appropriate correction is required.

Claim Objections

6. Claims 12 and 14 are objected to because of the following informalities: both claims 12 and 14 recite the word “actuatable” which appears to be an improper form of the word “actuate”. Appropriate corrections are required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-5 and 9-14** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,327,495 B1 by *Iwabuchi et. al.*

As to **Claims 1**, *Iwabuchi* discloses a portable electronic device, in particular a wireless portable telephone set (Fig 1), having “at least four electrodes provided on a main body of an intelligent terminal unit, a voltage detecting unit which detects a voltage of at least two electrode among said at least four electrodes... a display unit provided to

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said intelligent terminal unit, a voltage detecting unit which detects a voltage of at least two electrodes among said at least four electrodes, a switch unit which switches a function as an intelligent terminal unit into a function as a health management decide and vice versa, and a control unit which calculates a health management indicator based on data input ... and detected data from said voltage detecting unit and displays a calculated result on said display unit..." (col. 10, claim 1, col. 5, ll. 15-20) representative of physiological conditions (col.1, ll. 14-21) of an individual upon skin contact with the individual (col. 2, ll. 11-21; col.5, ll. 15-42). More specifically, *Iwabuchi* recites "... electrically conductive electrodes "A", "B", "C" and "D" at four corners of the front surface of the main body 1 thereof respectively so that two fingers of the right hand and two fingers of the left hand may be brought into contact with respective electrodes (col. 5 ll. 15-20)", this is indicative of multiple contact surfaces and presence of corresponding electrodes with each surface.

As to **Claim 2, 3 and 4**, *Iwabuchi* further discloses, in the same portable electronic device, wherein physiological conditions of an individual are detected through surface electrodes, then passes through "a control unit which calculates a health management indicator based on... detected data from said voltage detecting unit and displays a calculated result on said display unit (col. 10, Claim 6; col. 2, ll. 51-63). Finally, "an aggregation center which performs analysis based on a data from said intelligent terminal unit and transmits a result data of said analysis to said intelligent unit" where "a data communication is performed between said intelligent terminal unit and said aggregation center" (col. 10, Claim 6)

In particular, these actions are carried out by means for analyzing an electrical signal through control unit 21, an display unit 13 connected to the control unit 21 by a constant current generating circuit 22, and a wireless transmission switch unit 11 as transmission means to transmits data via a telephone office "K" to an aggregation center "S" (Fig. 3; col. 5, ll. 20-31). Furthermore, said device interacts with its user through messages displayed in the display unit, "and operator inputs his own height data by the numerical input 2 and turns on the memory key 8, the process moves to step 10 where the display unit 3 displays a character message for demanding the weight data to be input (Col. 6, ll. 24-53)."

As to **Claim 5**, *Iwabuchi* recites a health management system by which the "health management parameter is a pulse rate (col. 12, claim 17)" and "blood pressure" representative of the individual's cardiac activities (col.1 ll. 15-16).

As to **Claims 9, 10 and 11**, *Iwabuchi* further discloses a portable health management system having the embodiment of a mobile telephone handset (Fig.1, Fig 4) comprised of a keypad, a grip portion, an earphone, body unit and at least two electrodes capable of detecting cardiac activity of an individual upon skin contact. Specifically, Fig 1 is "a portable telephone set "T"... a front surface of a main body 1 made of insulating plastic or the like, with a numerical input unit 2 composed of ten-key pad for inputting a number of a telephone to be called, a display unit 3 composed of LCD or the like for indicating a number input from said input unit 2 and a communication condition as a portable telephone, a speaker...a microphone... The portable telephone set "T" is provided with electrically conductive electrodes "A", "B", "C", and "D" at four

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corners of the front surface of a main body 1 thereof respectively so that two fingers of the right hand and two fingers of the left hand may be brought into contact with respective electrodes (col. 4, ll. 65- col. 6 ll. 5)."

As to **Claim 12**, *Iwabuchi* further discloses "a health management system by that: an intelligent terminal unit having a numerical input unit, a display unit, a transmitting unit and receiving function unit, a memory unit comprises: at least four electrodes... a control unit which calculates a health management indicator based on data input from said numerical input unit and a detected data from said voltage detecting unit and displays a calculated result on said display unit (col. 10, claim 6)."

Furthermore, *Iwabuchi* discloses "a health management system comprising: a probe unit... a connector section of on a main body of an intelligent terminal unit, said probe unit being connectable to said connector section... an activation unit which activated said probe unit connected to said connector section...a control unit which calculates a desired health management parameter of the patient...and displays a calculated result on said display unit when said function is switched into said health management function by said switching unit (Claim 15, col. 11 ll. 53- col.12 ll.19)."

In regards to "first electrode being electrically isolated from said second electrode" as claimed by the present invention, refer to Claim 1 above.

As to **Claim 13**, *Iwabuchi* further discloses a health management system having the embodiment of a portable telephone that transmits biological data through "telephone call to the aggregation center "S" and transmits various data... (Fig 3, col.7 ll.10-29)."

As to **Claim 14**, *Iwabuchi* further discloses a display unit 3 that respond according to decisions made by the analysis steps over biological data (Fig. 2, col. 6 ll. 60- col.7 ll.10). More specifically, the said display unit is activated by a change- over switch 10 that controls the contents of the displayed information. In particular, "When the display change-over switch 10 has been turned on... and displays the calculated BMI on the display unit 3. Thus...Data for health management can be easily displayed alternatively by the use of a display change- over switch 10."

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. **Claims 6, 7 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,327,495 B1 by *Iwabuchi et. al.* in view of US-PGPUB

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US20020156381 A1 by *Kao et. al.* Claims 6, 7 and 8 recites a portable biological monitoring device having the embodiment of an electric toothbrush or electric shaver with surface electrodes. *Iwabuchi* discloses health management device, in the form of a portable telephone set, comprising at least four surface electrodes as a means to detect biological data via skin contact, analysis means via a control unit, display means and transmission means. *Iwabuchi's* invention failed to mention said management device being compatible with an electric toothbrush or electric shaver. However, *Kao's* invention teaches a method and system for treating a person's health by using sensory signals to measure and treat the user's condition during daily activities, such routine hygienic upkeep. In particular, an possible embodiment (Fig. 2) of the said treatment system comprising an article 21, which may be an instrument of bodily activity, wherein the said article 21 comprises [0033] a embedded sensor device 23- an electrode that can detect, but not limited to, blood pressure, and heart rate, an embedded display device 25, an embedded feedback unit 2 [0034] and a embedded powered supply 29. Furthermore, *Kao et. al.* regards an article used during a bodily function may include, but not limited to various forms of writing instruments and personal care devices, such as electric toothbrushes and electric shavers [0017]. *Iwabuchi's* invention and *Kao's* invention are analogous art because they are from the same field of endeavor. Therefore, *Iwabuchi's* invention could be structurally modified to be adapted as an electric tooth brush or an electric shaver, since *Kao's* invention clearly states that these two personal care products are structurally capable of being converted to portable medical devices comprising electrodes, analysis means and display means.

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It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify *Iwabuchi's* invention of health management device and system to become adaptable as an electric shaver or electric toothbrush in order to provide the advantages of having multiple health parameters measured at once, the convenience of portable medical devices, and speedy evaluation and response to an individual's health.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,485,416 B1 to Platt et al. discloses a similar invention of a remote monitoring apparatus comprising of a cellular phone with surface electrodes as biological detectors, and analysis, display and transmission units to remote locations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHIRLEY JIAN whose telephone number is (571)270-7374. The examiner can normally be reached on M-F 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on 571-272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Unit 4138